

### REMARKS

Claims 2-14, 17, 19, 20, 22-25, 29, 33-46, 48-50 and 53 are pending. Claim 53 has been allowed. Claim 25 has been amended to clarify the scope of the invention and claim 32 has been amended to resolve the Examiner's objection thereto. Reconsideration is respectfully requested.

#### Claim Amendments

Claim 25 has been amended to recite a *single* upper foot plate and an upper heel portion at a posterior end of the heel plate. Support for a single upper foot plate can be found in par. [0015] as well as the figures. The upper foot plate having a heel portion at its posterior end can be found in par. [0015] and the figures.

Claim 25 has also been amended to recite that the upwardly sloping surface of the upper foot plate defines a gap between the lower and upper foot plates that is greatest at the posterior portions of the upper and lower foot plates. Support for this amendment can be found in par. [0023] and the figures.

Claim 25 has further been amended to recite that the lower surface of the attachment device *only* contacts and conforms to the downwardly sloping portion of the upper surface of the upper foot plate. Support for this amendment can be found in par. [0028] and the figures.

Claims 25, 29, 32, 33 and 39 were rejected under 35 U.S.C. §102(e) as anticipated by Mosler et al., U.S. Patent No. 6,767,370. Claim 25 has been amended to recite a *single* upper foot plate having a heel portion that slopes upwardly toward its posterior end. Mosler, in contrast, includes in each embodiment *two upper foot plates 9 and 10*, each of which includes the limitations of the claimed upper footplate. Accordingly, Mosler cannot be reasonably read to disclose a single upper foot plate as claimed.

Moreover, claim 25 has been amended to recite that a space is defined between the lower surface of the upper foot plate and the upper surface of the lower foot plate at the upwardly sloping upper heel portion, and that the space is greatest at the posterior end of the upper foot plate. Support for this amendment is contained in the Figures. Even if the upper plate 10 could constitute a portion of the lower foot plate, the space between the upper

surface of foot plate 12 and the lower surface of foot plate 9 remains constant along the heel portion, and accordingly, the space is not greatest at the distal end of the foot plate 9.

Favorable reconsideration is respectfully requested.

Claims 2-4, 8-11, 14, 23, 25, 33 and 38-43 were rejected under 35 U.S.C. §102(b) as anticipated by Merlette et al. U.S. Patent No. 4,959,073. Claim 25 has been amended to clarify that the upper foot plate has an anterior end and a posterior end, and that the heel portion is at the posterior end of the upper foot plate. The Examiner has pointed to elements 12, 14, 16 as an upper foot plate and element 20 as a lower foot plate. Clearly, the upper foot plate disclosed by Merlette et al. does not include a heel portion at its posterior end, but rather extends upwardly such that the posterior end is a leg portion. Moreover, claim 25 has been amended to clarify that the lower mounting surface of the attachment device only contacts and conforms to the sloped upper surface of the upper heel portion. Support for this amendment is contained in the figures. The attachment shown in Merlette does not have a lower surface that contacts or conforms to the foot plate, and is not connected to the upper foot plate at the heel portion. Favorable reconsideration is respectfully requested.

Claims 25, 29, 32-35 and 38-41 were rejected as being anticipated by U.S. Patent 6,290,730 to Pitkin et al. Claim 25 has been amended to recite that the lower surface of the mounting plate *only contacts and conforms* to the sloped upper surface of the upper foot plate. The lower surface of the attachment device disclosed in Pitkin not only contacts the downwardly sloping surface of the upper foot plate, but also contacts portions of the upper surface that are flat or upwardly sloping.

Claims 3, 10, 14, 23, 25, 33, 34, 38, 39 and 42 were rejected as anticipated by Phillips U.S. Patent 5,181,932. As noted above, claim 25, from which the other claims depend, has been amended to clarify that the attachment device includes a lower surface that conforms to the downwardly sloped upper surface of the upper foot plate and that the upper foot plate is shorter than the lower foot plate. Phillips do not appear to disclose either of these features. For at least these reasons, Phillips cannot be considered as anticipating the claimed invention. Favorable reconsideration is respectfully requested.

Claims 2-4, 8-11, 14, 23-25, 29, 32-34 and 38-44 were rejected as unpatentable over Bryant, Jr. et al., U.S. Patent No. 5,728,171, in view of Merlette, U.S. Patent No. 4,959,073. Claim 25 has been amended to clarify that the upper foot plate terminates at the heel portion. Neither Bryant, Jr. nor Merlette disclose this feature.

Moreover, it does not appear that these references are even combinable as suggested. The attachment device disclosed by Merlette and the attachment device of Bryant, Jr. et al. appear to mount in significantly different ways, and in significantly different spatial orientations. One of skill in the art would not have any reason or basis to combine these references as suggested by the Examiner.

All of the claims remaining in this application are in condition for allowance. A prompt notice to that effect is respectfully solicited. If there are any remaining questions, the Examiner is requested to contact the undersigned at the number listed below.

Respectfully submitted,

FAEGRE & BENSON LLP

By: /John L. Crimmins, 51,589/  
John L. Crimmins  
Reg. No. 51,589  
612/766-7749  
Customer No.: 25764

Dated: August 24, 2009